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22 FRANK OCEAN

14
15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
17 **FIRST STREET COURTHOUSE**

18 CALVIN EDWARD COOKSEY, } Case No. 2:17-cv-00839-SVW-
19 Plaintiff, } (AGRx)
20 vs. } Judge: Hon. Stephen V. Wilson
21 FRANK OCEAN, ET AL., } Ctrm: 10A
22 Defendant. } **DEFENDANT FRANK OCEAN'S
23 ANSWER TO PLAINTIFF'S
24 COMPLAINT**

25 **DEMAND FOR JURY TRIAL**

26 Complaint Filed: February 2, 2017

27 Defendant FRANK OCEAN ("Defendant") hereby answers Plaintiff CALVIN
28 EDWARD COOKSEY's ("Plaintiff") Complaint as follows:

1. Defendant admits that he published an essay on his Tumblr account on
or about the date alleged in Paragraph 1. Defendant admits that the essay speaks for
itself. Defendant admits that the essay was published to members of the public, but

ANSWER

1 lacks sufficient knowledge or information to determine the truth of the allegation
2 concerning the number of people the essay was published to. Defendant is informed
3 and believes and on such information and belief admits Plaintiff is his biological
4 father. Defendant denies the remaining allegations in Paragraph 1.

5 2. Defendant admits he wrote the published essay. Defendant admits the
6 essay speaks for itself. Defendant denies the remaining allegations in Paragraph 2.

7 3. Defendant admits he wrote the published essay. Defendant admits the
8 essay speaks for itself. Defendant denies the remaining allegations in Paragraph 3.

9 4. Defendant denies the allegations in Paragraph 4.

10 10. Defendant denies Plaintiff's charges of libel in Paragraph 10.

11 Defendant lacks sufficient knowledge or information to determine the truth of the
12 remaining allegations in Paragraph 10, and therefore denies each and every
13 remaining allegation therein.

14 23. Defendant denies the allegations in Paragraph 23.

15 24. Defendant denies the allegations in Paragraph 24.

16 25. Defendant lacks sufficient knowledge or information to determine the
17 truth of the allegations in Paragraph 25, and therefore denies the allegations therein.

18 26. Defendant denies the allegations in Paragraph 26.

19 27. Defendant admits the essay speaks for itself. Defendant lacks sufficient
20 knowledge or information to determine the truth of the allegation in Paragraph 27
21 that Plaintiff is not a homophobic bigot, and therefore denies the allegation.

22 Defendant denies the remaining allegations in Paragraph 27.

23 37. Defendant admits that he published an essay on his Tumblr account on
24 or about the date alleged in Paragraph 37. Defendant admits that the essay speaks for
25 itself. Defendant admits that the essay was published to members of the public, but
26 lacks sufficient knowledge or information to determine the truth of the allegation
27 concerning the number of people the essay was published to. Defendant denies the
28 remaining allegations in Paragraph 37.

1 38. Defendant denies the allegations in Paragraph 38.

2 39. Defendant denies the allegations in Paragraph 39.

3 40. Defendant denies the allegations in Paragraph 40.

4 41. Defendant denies the allegations in Paragraph 41.

5 42. Defendant denies the allegations in Paragraph 42.

6 43. Defendant admits the total of Plaintiff's claimed damages in Paragraph

7 42 totals \$14.5 million dollars. Defendant denies the remaining allegations in

8 Paragraph 43.

9 44. Defendant is informed and believes and on such information and belief
10 admits the allegation that Plaintiff is proceeding in the action pro se. Defendant
11 cannot admit or deny the remaining statements in Paragraph 44 as they do not
12 contain factual allegations.

13 45. Defendant cannot admit or deny the statements in Paragraph 45 as they
14 do not contain any factual allegations.

15 46. Except as otherwise admitted herein, Defendant denies all of the
16 allegations of the Complaint.

AFFIRMATIVE DEFENSES

18 Further, as separate affirmative defenses to each and every claim for relief of
19 the Complaint, Defendant is informed and believes, and on such information and
20 belief alleges as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

23 1. Plaintiff's Complaint as a whole, and each purported cause of action
24 alleged therein, or some of them, fails to state a claim upon which relief can be
25 granted.

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SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

3 2. Plaintiff's Complaint as a whole, and each purported cause of action
4 alleged therein, or some of them, is barred by applicable statutes of limitations,
5 including, but not limited to, 17 U.S.C. section 507, and California Code of Civil
6 Procedure section 340(c).

THIRD AFFIRMATIVE DEFENSE

(Failure to Mitigate)

9 3. Plaintiff's Complaint as a whole, and each purported cause of action
10 alleged therein, or some of them, is barred by Plaintiff's failure to mitigate his
11 alleged damages, to the extent any damages exist.

FOURTH AFFIRMATIVE DEFENSE

(Laches)

14 4. Plaintiff has unreasonably delayed in bringing its claims to the
15 substantial prejudice of Defendant and by reason thereof has been guilty of laches,
16 and Plaintiff is thereby prejudiced from recovery in the within action.

FIFTH AFFIRMATIVE DEFENSE

(Estoppe)

19 5. Plaintiff, by the statements, conduct, acts, omissions and acquiescence
20 attributable to Plaintiff, is estopped from seeking any recovery or remedy as alleged
21 in the Complaint.

SIXTH AFFIRMATIVE DEFENSE

(De Minimis)

24 6. Plaintiff's Complaint as a whole, and each purported cause of action
25 alleged therein, or some of them, is barred by the *de minimis* doctrine.

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SEVENTH AFFIRMATIVE DEFENSE

(Lack of Subject Matter Jurisdiction)

3 7. The United States District Court for the Central District of California
4 does not have subject matter jurisdiction over Plaintiff's Complaint, and each and
5 every cause of action alleged therein.

EIGHTH AFFIRMATIVE DEFENSE

(Improper Venue)

8 8. The United States District Court for the Central District of California is
9 an improper venue to hear the claims.

NINTH AFFIRMATIVE DEFENSE

(Truth)

12 9. Defendant alleges the statements made are true. "Truth, of course, is an
13 absolute defense to any libel action." *Campanelli v. Regents of Univ. of Cal.*, 44 Cal.
14 App. 4th 572, 581-82 (Cal. App. 1st Dist. Apr. 11, 1996).

TENTH AFFIRMATIVE DEFENSE

(Statement of Opinion)

17 10. Defendant alleges the statements made are statements of opinion, and
18 thus not the proper subjects of a libel claim.

ELEVENTH AFFIRMATIVE DEFENSE

(Waiver)

11. Defendant knowingly and voluntarily relinquished a known and
appreciated right.

TWELFTH AFFIRMATIVE DEFENSE

(Privilege)

25 12. Plaintiff is barred from relief on the Complaint, and on each purported
26 cause of action alleged therein, because Defendant's conduct was justified and/or
27 privileged under the circumstances, including, but not limited to, because they
28 constituted fair comment.

THIRTEENTH AFFIRMATIVE DEFENSE
(Unclean Hands)

13. Plaintiff cannot seek damages or equity because Plaintiff comes to the Court with unclean hands.

FOURTEENTH AFFIRMATIVE DEFENSE
(Public Figure Plaintiff)

14. Plaintiff is a public figure, and as such is unable to meet his heightened burden of proof to sustain the claim for libel.

FIFTEENTH AFFIRMATIVE DEFENSE

11 15. Any and all alleged events and happenings, injuries, losses or damages
12 referred to in Plaintiff's Complaint were directly and proximately caused and
13 contributed to, in whole or in part, by the carelessness, negligence, and willful acts of
14 Plaintiff herein, and therefore the extent of loss, damages or injury sustained by
15 Plaintiff, if any, should be reduced in proportion to the amount of negligence or fault
16 attributable to Plaintiff.

SIXTEENTH AFFIRMATIVE DEFENSE
(Offset)

19 16. By virtue of the statements, conduct, acts, omissions, and acquiescence
20 attributable to Plaintiff, Defendant has incurred damages and expenses, all in the
21 same amounts to be ascertained according to proof at trial, and applied as an offset
22 against the claims and causes of action contained in the Complaint.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Right to Add Additional Affirmative Defenses)

25 17. Defendant hereby preserves its right to add any and all affirmative
26 defenses not stated herein.

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PRAYER

WHEREFORE, Defendant prays that:

1. the Court enter an order declaring that Plaintiff shall recover nothing by his Complaint;
2. the Complaint be dismissed with prejudice;
3. the Court enter judgment in his favor and against Plaintiff;
4. the Court award Defendant his fees and costs incurred in defense of this Complaint, including but not limited to attorney's fees; and
5. for such other relief as the Court deems just and proper.

Dated: May 10, 2017

**KING, HOLMES, PATERNO & SORIANO,
LLP**

Dated: May 10, 2017

BREMER, WHYTE, BROWN & O'MEARA,
LLP

11. *Leucosia* (Leucosia) *leucostoma* (Fabricius) (Fig. 11)

By: /s/ Benjamin L. Price

KEITH G. BREMER
BENJAMIN L. PRICE
SEAN D. WILLET
Attorneys for Defendant
FRANK OCEAN

DEMAND FOR JURY TRIAL

Defendant hereby demands a trial by jury.

Dated: May 10, 2017

KING, HOLMES, PATERNO & SORIANO,
LLP

By: /s/ Howard E. King

HOWARD E. KING, ESQ.
STEPHEN D. ROTHSCHILD, ESQ.
Attorneys for Defendant
FRANK OCEAN

Dated: May 10, 2017

BREMER, WHYTE, BROWN & O'MEARA,
LLP

By: /s/ Benjamin L. Price

KEITH G. BREMER
BENJAMIN L. PRICE
SEAN D. WILLET
Attorneys for Defendant
FRANK OCEAN

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 20320 S.W. Birch Street, Second Floor, Newport Beach, California 92660.

On May 10, 2017, I served the within document(s) described as:

DEFENDANT FRANK OCEAN'S ANSWER TO PLAINTIFF'S COMPLAINT

on the interested parties in this action as stated on the attached mailing list.

(BY ELECTRONIC SERVICE) Complying with Code of Civil Procedure § 1010, I caused such document(s) to be Electronically Filed and Served through the Central District Court ECF for the above-entitled case. Upon completion of transmission of said document(s), a filing receipt is issued to the filing party acknowledging receipt, filing and service by Central District Court ECF's system. A copy of the Central District Court ECF filing receipt page will be maintained with the original document(s) in our office.

Executed on May 10, 2017, at Newport Beach, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Deborah Hernandez
(Type or print name)

(Signature)

Calvin Edward Cooksey v. Frank Ocean, et al.

Case No. 2:17-cv-00839-SVW-(AGRx)

**BWB&O CLIENT: Frank Ocean
BWB&O FILE NO.: 1317.002**

SERVICE LIST

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